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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,035	03/26/2004	Albert S. Weiner	ATM-291	8458
3897	7590	11/15/2007	EXAMINER	
SCHNECK & SCHNECK			NGUYEN, THINH T	
P.O. BOX 2-E				
SAN JOSE, CA 95109-0005			ART UNIT	PAPER NUMBER
			2818	
			MAIL DATE	DELIVERY MODE
			11/15/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.	WEINER, ALBERT S.
10/810,035	
Examiner	Art Unit
Thinh T. Nguyen	2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 28 August 2007.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1 and 3-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 August 2007 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This is in response to Applicant's Communication filed April 9<sup>th</sup> 2007
2. Claim 1,3-30 are pending in the Application with claims 11-31 withdrawn from consideration .

***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drawing of -- “ non-volatile memory transistor and a first select transistor and a second plurality of mask programmed read-only memory cells including a mask programmed memory transistor and a second select transistor, the non-volatile memory cells and the read-only memory cells having the same footprint **within a single memory array.**”-- in claim 1 must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where

necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite because of recitation:

--“ non-volatile memory transistor and a first select transistor and a second plurality of mask programmed read-only memory cells including a mask programmed memory transistor and a second select transistor, the non-volatile memory cells and the read-only memory cells having the same footprint **within a single memory array.**” --

Note that the important feature of Applicant invention is about integration of two kind of memory: OTP ROM (one time programmable Read Only Memory) and FLASH EEPROM (electrically Erasable Programmable Read Only Memory ) and Applicant fail to show clearly in the drawings or the specification how these two types of memory are integrated ( are they in a separate two sub-arrays with separate area ?are they in a separate three or four or more sub-arrays ? are they configured randomly in a cross point array ? are they configured alternatively ?

Therefore ,claim 1 is indefinite because it is not possible to know what metes and bound of the structural embodiment that the Applicant seeks patent protection.

6. Claim 3-10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite because they are dependent claims that depend on an indefinite base claim.

7. Additionally, claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for the recitation:

-- “ the respective first or second select transistor and memory transistor having a **common electrode** in each memory cell. “--

Since the select transistor and the memory cell has many different electrodes it is not possible to know from the recitation which electrode is common.and therefore claim 3 is indefinite.

8. For now, there are no prior arts rejections of claims 1,3-10 because it is the Examiner position that only when the issues of indefiniteness under 35 U.S.C. 112, second paragraph of

claims 1-10 are resolved, then a meaningful determination of patentability of the invention, (by comparing the invention with prior arts) can be made.

9. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and the page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.
10. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) day from the day of this letter. Failure to respond within the period for response will cause the application to be abandoned (see M.P.E.P. 710.02(b)).

## **CONCLUSION**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thinh T Nguyen whose telephone number is 571-272-1790. The examiner can normally be reached on Monday-Friday 9:30am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Loke can be reached at 571-272-1657.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval [ PAIR ] system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/Thinh T. Nguyen/**

Patent Examiner

Art Unit 2818